



ITW

Atty. Dkt. No. 044463-0264

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Jonathan PHILLIPS et al.  
Title: VASCULAR-PREFERRED PROMOTERS  
Appl. No.: 10/717,897  
Filing Date: 11/21/2003  
Examiner: Unassigned  
Art Unit: 1638

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.56**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of documents known to Applicants in order to comply with Applicants' duty of disclosure pursuant to 37 CFR §1.56. A copy of each listed document, except as noted below, is being submitted to comply with the provisions of 37 CFR §1.97 and §1.98.

The USPTO has waived the requirement under 37 CFR 1.98(a)(2)(i) to submit copies of U.S. patents and U.S. patent application publications when citing and submitting an Information Disclosure Statements in a patent application filed after June 30, 2003 and in an international application that has entered the national stage under 37 USC §371 after June 30, 2003. Accordingly, copies of these types of documents are not being supplied in connection with this application. Reference is being made to Pre-OG Notice from Office of Patent Legal Administration dated July 25, 2003, *Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published Applications in Patent Applications filed after June 30, 2003.*

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicants do not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

### **TIMING OF THE DISCLOSURE**

The listed documents are being submitted in compliance with 37 CFR §1.97(b), before the mailing date of the first Office Action on the merits.

### **RELEVANCE OF EACH DOCUMENT**

The relevance of the foreign-language documents is described in the present specification. English translations of the foreign-language documents are not readily available. However, the absence of such translations does not relieve the PTO from its duty to consider the submitted foreign language documents (37 CFR §1.98 and MPEP §609).

Applicants respectfully request that any listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date

July 14, 2004

FOLEY & LARDNER LLP

Customer Number: 22428

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By

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Substitute for form 1449B/PTO		<b>Complete if Known</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>		<b>Application Number</b>	10/717,897
Date Submitted: July 15, 2004		<b>Filing Date</b>	11/21/2003
(use as many sheets as necessary)		<b>First Named Inventor</b>	Jonathan PHILLIPS et al.
Sheet 1 of 8		<b>Group Art Unit</b>	1638
TRADEMARK OFFICE		<b>Examiner Name</b>	Unassigned
OIP JUL 14 2004		<b>Attorney Docket Number</b>	044463-0264

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
	A1	4,458,066		CARUTHERS et al.	07-03-1984	
	A2	5,451,514		BOUDET et al.	09-19-1995	
	A3	5,565,340		CHENCHIK et al.	10-15-1996	
	A4	5,759,822		CHENCHIK et al.	06-02-1998	
	A5	6,051,757		BARTON et al.	04-18-2000	
	A6	6,132,970		STEMMER	10-17-2000	
	A7	6,187,994	B1	BASZCYNski et al.	02-13-2001	
	A8	6,204,434	B1	BLOKSBERG et al.	03-20-2001	
	A9	6,518,485	B1	CONNETT-PORCEDDU et al.	02-11-2003	

## FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Documents	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Office <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				
	A10	EP	0 120 516	B1	RIJSUNIVERSITEIT LEIDEN et al.	10-23-1991		
	A11	EP	0 154 204	B1	MGI PHARMA, INC.	01-12-1994		
	A12	EP	0 271 988	B1	ZENeca LIMITED	08-16-1995		
	A13	WO	92/04449		MONSANTO COMPANY	03-19-1992		
	A14	WO	93/19189		MONSANTO COMPANY	09-30-1993		
	A15	WO	94/23044		SAMUEL ROBERTS NOBLE FOUNDATION, INC.	10-13-1994		
	A16	WO	99/61631		NOVARTIS AG	12-02-1999		

## NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>6</sup>
	A17	ZIV SHANI et al., "Cellulose Binding Domain Increases Cellulose Synthase Activity in <i>Acetobacter Xylinum</i> , and Biomass of Transgenic Plants", Plant Biotechnology and In Vitro Biology in the 21 <sup>st</sup> Century, Proceedings of the IXth International Congress of the International Association of Plant Tissue Culture and Biotechnology Jerusalem, Isreal, June 14-19, 1998, Kluwer Academic Publishers, 1999, pp. 213-218.	
	A18	MICHAEL J. ADANG et al., "The Reconstruction and Expression of a <i>Bacillus thuringiensis cry IIIA</i> gene in protoplasts and potato plants", Plant Molecular Biology, March 1993, Vol. 21, No. 6, pp. 1131-1145.	
	A19	STEPHEN F. ALTSCHUL et al., "Gapped BLAST and PSI-BLAST: A new generation of protein database search programs", Nucleic Acids Research, Oxford University Press, 1997, Vol. 25, No. 17, pp. 3389-3402.	

Examiner Signature

Date Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Unique citation designation number. <sup>2</sup> See attached Kinds of U.S. Patent Documents. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

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	A20	STEPHEN F. ALTSCHUL et al., "Basic Local Alignment Search Tool", J. Mol. Biol., Academic Press Limited, October 5, 1990, Vol. 215, No. 3, pp. 403-410.	
	A21	"Crop Species", Handbook of Plant Cell Culture, 1990 UCLA Symposium on Molecular Strategies for Crop Improvement, 3 pages	
	A22	SHABBIR B. BAMBOT et al., "Efficient Total Gene Synthesis of 1.35-kb Hybrid Alpha-Lytic Protease Gene Using the Polymerase Chain Reaction", PCR Methods and Applications, Cold Spring Harbor Laboratory, February 1993, Volume 2, No. 3, pp. 266-271.	
	A23	MARIE BAUCHER et al., "Red Xylem and Higher Lignin Extractability by Down-Regulating a Cinnamyl Alcohol Dehydrogenase in Poplar", Plant Physiol., 1996, Vol. 112, pp. 1479-1490.	
	A24	S. L. BEAUCAGE, et al., "Deoxynucleoside Phosphoramidites - A New Class of Key Intermediates for Deoxypolynucleotide Synthesis", Tetrahedron Letters, Pergamon Press Ltd., 1981, Vol. 22, No. 20, pp. 1859-1862.	
	A25	MICHAEL BEVAN, "Binary <i>Agrobacterium</i> Vectors for Plant Transformation", IRL Press Limited, 1984, Volume 12, No. 22, pp. 8711-8721.	
	A26	E. T. BOLTON et al., "A General Method for the Isolation of RNA Complementary to DNA", Biochemistry: Bolton and McCarthy, Proc. Natl. Acad. Sci., 1962, Volume 48, pp. 1390-1397,	
	A27	TOM I. BONNER et al., "Reduction in the Rate of DNA Reassociation by Sequence Divergence", Journal of Molecular Biology, March 15, 1973, Volume 81, pp. 123-135.	
	A28	MARK D. BUROW et al., "High Frequency Generation of Transgenic Tobacco Plants after Modified Leaf Disk Cocultivation with <i>Agrobacterium tumefaciens</i> ", Plant Molecular Biology Reporter, Transaction Periodicals Consortium, Rutgers University, May 1990, Volume 8, No. 2, pp. 124-139.	
	A29	CHANG et al., "A Simple and Efficient Method for Isolating RNA from Pine Trees", Plant Molecular Biology Reporter, Transaction Periodicals Consortium, Rutgers University, June 1993, Volume 11, No. 2, pp. 113-116.	
	A30	ALAN H. CHRISTENSEN et al., "Ubiquitin Promoter-based Vectors for High Level Expression of Selectable and/or Screenable Marker Genes in Monocotyledonous Plants", Transgenic Research, Chapman & Hall, May 1996, Volume 5, No. 3, pp. 213-218.	

Examiner  
Signature

Date  
Considered

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				Attorney Docket Number	044463-0264
Sheet	3	of	8		

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Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>5</sup>
	A31	HEATHER COLEMAN et al., "Increased Growth and Yield by Altered Carbohydrate Allocation", Intl. Union of Forestry Research Organizations Biennial Conference in Umea, Sweden, June 2003, 1 page.	
	A32	HENRY DANIELL et al., "Containment of Herbicide Resistance Through Genetic Engineering of the Chloroplast Genome", April 1998, Nature Biotechnology, Volume 16, pp. 345-348.	
	A33	KATHLEEN D'HALLUIN et al., "Transgenic Maize Plants by Tissue Electroporation", The Plant Cell, 1992 Society of Plant Physiologists, December 1992, Volume 4, pp. 1495-1505.	
	A34	D. PALITHA DHARMAWARDHANA et al., "cDNA Cloning and Heterologous Expression of Coniferin beta-glucosidase", Plant Molecular Biology, International Society for Plant Molecular Biology, Kluwer Academic Publishers, May 1999, Volume 40, No. 2, pp. 365-372.	
	A35	PATRICK DILLON et al., "Use of Polymerase Chain Reaction for the Rapid Construction of Synthetic Genes", PCR Protocols: Current Methods and Applications, Methods in Molecular Biology, 1993, Humana Press Inc., Volume 15, pp. 263-268.	
	A36	CATHERINE FEUILLET et al., "Tissue- and Cell-Specific Expression of a Cinnamyl Alcohol Dehydrogenase Promoter in Transgenic Poplar Plants", Plant Molecular Biology, International Society for Plant Molecular Biology, Kluwer Academic Publishers, February 1995, Volume 27, No. 4, pp. 651-667.	
	A37	ROBERT T. FRALEY et al., "Expression of Bacterial Genes in Plant Cells", Proc. Natl. Acad. Sci. USA, Monsanto Company, August 1983, Volume 80, pp. 4803-4807.	
	A38	C. GRAND et al., "Inhibition of Cinnamyl-alcohol-dehydrogenase Activity and Lignin Synthesis in Poplar ( <i>Populus X euramericana</i> Dode) Tissues by Two Organic Compounds", Planta, Springer-Verlag, 1985, Volume 163, No. 2, pp. 232-237.	
	A39	JACQUELINE GRIMA-PETTENATI et al., "Lignin Genetic Engineering Revisited", Plant Science, Elsevier Science Ireland Ltd., 1999, Volume 145, pp. 51-65.	

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	A40	DIANE HATTON et al., "Two Classes of CIS Sequences Contribute to Tissue-Specific Expression of a PAL2 Promoter in Transgenic Tobacco", The Plant Journal, 1995, Volume 7, No. 6, pp. 859-876.	
	A41	KARL D. HAUFFE et al., "Combinatorial Interactions Between Positive and Negative CIS-acting Elements Control Spatial Patterns of 4CL-1 Expression in Transgenic Tobacco", The Plant Journal, 1993, Volume 4, No. 2, pp. 235-253.	
	A42	AKIO HAYASHIMOTO et al., "A Polyethylene Glycol-Mediated Protoplast Transformation System for Production of Fertile Transgenic Rice Plants", Plant Physiology, The American Society of Plant Physiologists, July 1990, Volume 93, No. 3, pp. 857-863.	
	A43	LUIS HERRERA-ESTRELLA et al., "Expression of Chimaeric Genes Transferred into Plant Cells Using a Ti-plasmid-derived Vector, Nature, International Weekly Journal of Science, Macmillan Journals Ltd., May 19-25, 1983, Volume 303, No. 5914, pp. 209-213.	
	A44	MAUD A. W. HINCHEE et al., "Production of Transgenic Soybean Plants Using Agrobacterium-Mediated DNA Transfer", Bio/Technology, The International Monthly for Industrial Biology, August 1988, Volume 6, pp. 915-922.	
	A45	EUGENE W. HOLOWACHUK et al., "Efficient Gene Synthesis by Klenow Assembly / Extension—Pfu Polymerase Amplification (KAPPA) of Overlapping Oligonucleotides", PCR Methods and Applications, Cold Spring Harbor Laboratory, Volume 4, pp. 299-302.	
	A46	R. B. HORSCH et al., "Rapid Assay of Foreign Gene Expression in Leaf Discs Transformed by <i>Agrobacterium tumefaciens</i> : Role of T-DNA Borders in the Transfer Process, Proc. Natl. Acad. Sci. USA, June 1986, Volume 83, pp. 4428-4432.	
	A47	R. B. HORSCH et al., "A Simple and General Method for Transferring Genes into Plants", Science 227, March 1985, pp. 1229-1231.	
	A48	RICHARD A. JEFFERSON et al., "GUS Fusions: Beta-glucuronidase as a Sensitive and Versatile Gene Fusion Marker in Higher Plants, The Embo Journal, IRL Press Limited, December 20, 1987, Volume 6, No. 13, pp. 3901-3907.	

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	A49	RICHARD A. JEFFERSON, "Assaying Chimeric Genes in Plants: The GUS Gene Fusion System", Plant Molecular Biology Reporter, Plant Breeding Institute, 1987, Volume 5, No. 4, pp. 387-405.	
	A50	BEAT KELLER et al., "Vascular Expression of a Bean Cell Wall Glycine-rich Protein – beta – glucuronidase Gene Fusion in Transgenic Tobacco", The Embo Journal, IRL Press Limited, May 1989, Volume 8, No. 5, pp. 1309-1314.	
	A51	BEAT KELLER et al., "Vascular expression of the <i>grp1.8</i> promoter is controlled by three specific regulatory elements and one unspecific activating sequence", Plant Molecular Biology, International Society for Plant Molecular Biology, Kluwer Academic Publishers, October 1994, Volume 26, No. 2, pp. 747-756.	
	A52	HARRY J. KLEE et al., "Vectors for Transformation of Higher Plants", Bio/Technology, July 1985, Volume 3, pp. 637-642.	
	A53	T. M. KLEIN et al., "Factors Influencing Gene Delivery into <i>ZEA Mays</i> Cells by High-Velocity Microprojectiles, Bio/Technology, "BioActive Compounds From Algae May 1988, Volume 6, pp. 559-563.	
	A54	HALINA KONONOWICZ, "Subdomains of the Octopine Synthase Upstream Activating Element Direct Cell-Specific Expression in Transgenic Tobacco Plants, The Plant Cell, 1992 American Society of Plant Physiologists, January 1992, Volume 4, pp. 17-27.	
	A55	ERIC LACOMBE et al., "Characterization of <i>cis</i> -elements Required for Vascular Expression of the <i>Cinnamoyl CoA Reductase</i> Gene and for Protein DNA Complex Formation, The Plant Journal, 2000 Blackwell Science Ltd., Volume 23, No. 5, pp. 663-676.	
	A56	ILAN LEVY et al., "Modification of Polysaccharides and Plant Cell Wall by endo-1,4-beta-glucanase and Cellulose Binding Domains, Biomolecular Engineering, 2002 Elsevier Science B. V., Volume 19, pp. 17-30.	
	A57	ANTONIO LEYVA et al., " <i>cis</i> -Element Combinations Determine Phenylalanine Ammonia-Lyase Gene Tissue-Specific Expression Patterns", The Plant Cell, 1992 American Society of Plant Physiologists, March 1992, Volume 4, pp. 263-271.	

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	A59	CATHIE MARTIN et al., "MYB Transcription Factors in Plants", Trends in Genetics, 1997 Elsevier Science Ltd., February 1997, Volume 13, No. 2, pp. 67-73.		
	A60	NARUMI MATSUDA et al., "Partial Male Sterility in Transgenic Tobacco Carrying Antisense and Sense PAL cDNA Under the Control of a Tapetum-Specific Promoter", Plant & Cell Physiology, The Japanese Society of Plant Physiologists, March 1996, Volume 37, No. 2, pp. 215-222.		
	A61	DAVID McELROY et al., "Isolation of an Efficient Actin Promoter for Use in Rice Transformation", The Plant Cell, 1990 American Society of Plant Physiologists, February 1990, Volume 2, pp. 163-171.		
	A62	S. G. ROGERS et al., "Improved Vectors for Plant Transformation: Expression Cassette Vectors and New Selectable Markers", Methods in Enzymology, Recombinant DNA, Part D, Academic Press, 1987, Inc., Volume 153, pp. 253-277		
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		<b>Application Number</b> <b>Filing Date</b> <b>First Named Inventor</b> <b>Group Art Unit</b> <b>Examiner Name</b> <b>Attorney Docket Number</b>	10/717,897 11/21/2003 Jonathan PHILLIPS et al. 1638 Unassigned 044463-0264
Sheet	7	of	8

NON PATENT LITERATURE DOCUMENTS			
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	A67	INGO POTRYKUS et al., "Direct Gene Transfer to Cells of a Gramineaceous Monocot", Mol. Gen. Genet, Springer-Verlag, 1985, Volume 199, pp. 183-188.	
	A68	S.N.I.M. SALEHUZZAMAN et al., "Isolation and Characterization of a cDNA Encoding Granule-Bound Starch Synthase in Cassava ( <i>Manihot esculenta</i> Crantz) and its Antisense Expression in Potato", Plant Molecular Biology, Kluwer Academic Publishers, 1993, Volume 23, pp. 947-962.	
	A69	C.J.S.SMITH et al., "Antisense RNA Inhibition of Polygalacturonase Gene Expression in Transgenic Tomatoes", Nature, August 1988, Volume 334, No. 25, pp. 724-726.	
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		Filing Date	11/21/2003		
		First Named Inventor	Jonathan PHILLIPS et al.		
		Group Art Unit	1638		
		Examiner Name	Unassigned		
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	A76	VIMLA VASIL et al., "Regeneration of Plants From Embryogenic Suspension Culture Protoplasts of Wheat ( <i>Triticum Aestivum</i> L.)", Bio/Technology, May 1990, Volume 8, pp. 429-434.	
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